

(i) That the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and that grant of the waiver is otherwise in the public interest; or

(ii) That the unique facts and circumstances of a particular case render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest. Applicants must also show the lack of a reasonable alternative.

(2) If the information necessary to support a waiver request is already on file, the applicant may cross-reference to the specific filing where it may be found.

(b) Denial of waiver, alternate showing required. If a waiver is not granted, the application will be dismissed as defective unless the applicant has also provided an alternative proposal which complies with the Commission's rules (including any required showings).

#### **§ 24.820 Defective applications.**

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution or other matters of a formal character; or

(2) The application does not comply with the Commission's rules, regulations, specific requirements for additional information or other requirements. *See also* § 1.2105 of this chapter.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not filled out completely and signed;

(2)–(4) [Reserved]

(5) The application (other an application filed on FCC Form 175) does not include an environmental assessment as required for an action that may have a significant impact upon the environment, as defined in § 1.1307 of this chapter.

(6) [Reserved]

(7) The application is filed prior to the Public Notice issued under § 24.705, announcing the application filing date for the relevant auction or after the cutoff date prescribed in that Public Notice.

(c) [Reserved]

(d) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

#### **§ 24.821 Inconsistent or conflicting applications.**

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, its successor or assignee, or on behalf or for the benefit of the same applicant, its successor or assignee.

#### **§ 24.822 Amendment of application to participate in auction for licenses in the broadband Personal Communications Services filed on FCC Form 175.**

(a) The Commission will provide bidders a limited opportunity to cure defects in FCC Form 175 specified herein except for failure to sign the application and to make certifications, defects which may not be cured. *See also* § 1.2105 of this chapter.

(b) In broadband PCS, applicants will be permitted to amend their Form 175 applications to make minor amendments to correct minor errors or defects such as typographical errors. Applicants will also be permitted to amend FCC Form 175 to make changes to the information required by § 24.813(a) (such as ownership changes or changes in the identification of parties to bidding consortia), provided such changes do not result in a change in control of the applicant and do not involve another applicant (or parties in interest to an applicant) who has applied for licenses in any of the same geographic license areas as the applicant. Amendments which change control of the applicant will be considered major amendments. An FCC Form 175 which is amended by a major amendment will

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be considered to be newly filed and cannot be resubmitted after applicable filing deadlines. *See also* §1.2105 of this chapter.

[59 FR 37610, July 22, 1994, as amended at 59 FR 53371, Oct. 24, 1994]

EFFECTIVE DATE NOTE: At 63 FR 50800, Sept. 23, 1998, §24.822 was removed, effective Nov. 23, 1998.

### **§24.823 Amendment of applications for licenses in the broadband Personal Communications Services (other than applications filed on FCC Form 175).**

(a) *Amendments as of right.* A pending application may be amended as a matter of right if the application has not been designated for hearing.

(1) Amendments shall comply with §24.829, as applicable; and

(2) Amendments which resolve interference conflicts or amendments under §24.829 may be filed at any time.

(b) The Commission or the presiding officer may grant requests to amend an application designated for hearing only if a written petition demonstrating good cause is submitted and properly served upon the parties of record.

(c) *Major amendments, minor amendments.* The Commission will classify all amendments as minor except in the cases listed below. An amendment shall be deemed to be a major amendment subject to §24.827 if it proposes a substantial change in ownership or control.

(d) If a petition to deny (or other formal objection) has been filed, any amendment, request for waiver or other written communication shall be served on the petitioner, unless waiver of this requirement is granted pursuant to paragraph (e) of this section. *See also* §1.2108 of this Chapter.

(e) The Commission may waive the service requirements of paragraph (d) of this section and prescribe such alternative procedures as may be appropriate under the circumstances to protect petitioners' interests and to avoid undue delay in a proceeding, if an applicant submits a request for waiver which demonstrates that the service requirement is unreasonably burdensome.

(f) Any amendment to an application shall be signed and shall be submitted

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in the same manner, and with the same number of copies, as was the original application. Amendments may be made in letter form if they comply in all other respects with the requirements of this chapter.

(g) An application will be considered to be a newly-filed application if it is amended by a major amendment (as defined in this section), except in the following circumstances:

(1)–(2) [Reserved]

(3) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest;

(4) [Reserved]

(5) The amendment corrects typographical transcription or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts.

### **§24.824 [Reserved]**

### **§24.825 Application for temporary authorizations.**

(a) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in §24.805 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, at least 10 days prior to the expiration date of the existing temporary authorization. The Commission may accept a late-filed request upon due showing of sufficient reasons for the delay in submitting such request.

(b) Special temporary authorizations may be granted without regard to the 30-day public notice requirements of §24.827(b) when: